

# GIBSON, DUNN & CRUTCHER LLP

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January 22, 2007

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T54563-00001

**VIA E-MAIL, FACSIMILE  
AND REGULAR U.S. MAIL**

Richard R. Young  
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Colorado Springs, CO 80903-1615

Travis T. Tygart  
Senior Managing Director and General Counsel  
U.S. Anti-Doping Agency  
1330 Quail Lake Loop, Suite 260  
Colorado Springs, CO 80906-4651

Re: *USADA v. Floyd Landis, AAA Case No. 30 190 00847 06*  
*Second Request for Production of Documents*

Dear Messrs. Tygart and Young:

Per our telephone conversation on January 18, 2007, this correspondence constitutes Floyd Landis' request for production of documents, which incorporates previously requested documents called for in Mr. Landis' First Request for Production of Documents.

To date, Mr. Landis has received no other document discovery from the United States Doping Agency ("USADA") other than those laboratory documents bates numbered USADA 0001 to 0370 contained within the document set referred to as the "lab package." Review of USADA 0001 to 0370 have revealed numerous discrepancies, inconsistencies and errors in laboratory procedure, handling of samples and interpretation that require an analysis that cannot be accomplished absent further document discovery. To accomplish that analysis, on October 16, 2006, Mr. Landis served upon USADA and the Union Cyclist International ("UCI")

his First Request for Production of Documents ("First Request"). No documents were produced by USADA or the UCI in connection with that request. In an attempt to resolve these outstanding discovery issues, Mr. Landis now propounds the Second Request for Production of Documents, which incorporates and supersedes the previous and unanswered First Request.

As we discussed on our last call, this Second Request for Production of Documents does not yet include other written discovery, including interrogatories or requests for admission, nor does it detail the witness depositions, third-party or otherwise, that may need to be conducted. Per our discussion, obtaining these documents is a first step to conduct this discovery process in an orderly manner, and we look forward to setting a discovery cut-off with you in conjunction with the overall scheduling of the handling of this case.

## **II. SECOND REQUEST FOR PRODUCTION OF DOCUMENTS**

### **A. DEFINITIONS AND INSTRUCTIONS**

As used herein, the following terms shall have the following meanings:

1. The terms "YOU," "YOUR" and "USADA" mean the United States Anti-Doping Agency, its representatives and agents and witnesses, as the case may be, and any other persons representing and/or acting on its behalf or at its direction.

2. The term "CONCERNING" and the term "RELATING TO" shall mean the same thing, that is referring to, alluding to, responding to, relating to, connected with, commenting on, in respect of, about, regarding, discussing, showing, describing, mentioning, analyzing, reflecting, evidencing, supporting, and/or constituting.

3. The terms "DOCUMENTS" or "DOCUMENTS" mean any handwritten, typed, printed, pictorial, or graphic matter, however produced or reproduced, of every kind and description, and any other tangible thing, including without limitation, any "writings," "originals," and "duplicates," as defined in California Evidence Code Sections 250, 255, and 260, and any facsimiles, electronic records, film records or productions. If a writing has been prepared in more than one copy and any copy was not - or is no longer - identical to the original (whether by reason of notations, modifications, alterations, or marginal notes, including those made on "Post-Its" or their equivalent), each non-identical copy must be included. For example, the term "DOCUMENT" includes, without limitation: records, correspondence, telegrams, notes, electronic mail, facsimiles, calendar pages, check lists, files, file folders, sound recordings, memoranda, reports, written analyses, contracts and their supplements, amendments, and modifications, licenses, agreements, illustrations, diagrams, instructions, photographs, films, videotapes, electronic or magnetic tapes, computer printouts, reports, books, job or transaction files, records of telephone conversations (including, without limitation, telephone bills and notes of such conversations), meetings or minutes of any meetings, drafts of the foregoing or anything

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similar to any of the foregoing, however denominated. "DOCUMENT" includes without limitation any electronically stored documents such as electronic mail or other documents stored on a computer system, backed-up voice-mail, any videotape or audiotape. If any DOCUMENT exists only in electronic form, any printout or other output readable by sight, shown to reflect the data accurately, must be produced. All attachments or enclosures which accompany requested DOCUMENTS shall be produced in response to this Demand. Any DOCUMENT which relates only in part to the DOCUMENT categories set forth below shall be produced.

4. The term "GC-MS" shall refer to the testing mechanism known as Gas Chromatography Mass Spectrometry, which is the mechanism used to determine the ratio of testosterone to epitestosterone in screening tests for exogenous testosterone.

5. The term "IRMS" shall refer interchangeably to Isotope Ratio Mass Spectrometry and Gas Chromatography/Combustion IRMS ("GC-C-IRMS") and Carbon Isotope Testing ("CIR") which is the mechanism used to determine the ratio of carbon 12 (12c) to carbon 13 (13c) during the course of confirmation tests for exogenous testosterone.

6. LNDD shall refer to the Laboratoire National de Depistage du Dopage ("LNDD") located in Châtenay-Malabry, France that has been designated by the Agence Francaise de Lutte Contre le Dopage ("AFLD") to serve as the French national laboratory for drug control. The AFLD is the French Anti-Doping Agency.

7. The term "STANDARD OPERATING PROCEDURE(S)" ("SOPs") shall refer to the controlled copies (or uncontrolled copies if no such controlled copies exist or if such uncontrolled copies differ in any way from the controlled copies) of any and all procedures used by LNDD relating to any and all aspects of its testing, including without limitation, the receiving, handling, storing, processing and analysis of all samples as well as the maintenance, calibration and operation of any and all instrumentation. Additionally, it shall refer to any (controlled or uncontrolled) "bench" versions of such procedures.

8. In producing DOCUMENTS and other materials, YOU are requested to furnish all DOCUMENTS and materials in YOUR possession, custody or control, regardless of whether such DOCUMENTS or materials are possessed directly by YOU, YOUR attorneys, or YOUR agents, employers, employees, representatives or investigators.

## **B. GENERAL**

1. All ELECTRONIC DATA FILES and other DOCUMENTS for all test results conducted during the 2006 Tour de France by LNDD of specimens provided by Floyd Landis.

2. All DOCUMENTS that CONCERN any testing of urine or blood samples provided by Floyd Landis during the 2006 Tour de France by LNDD.

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3. All DOCUMENTS that CONCERN any testing of urine or blood samples provided by Floyd Landis during the period beginning January 1, 2001 to the present.
4. All SOPS related to the analysis of any urine or blood sample provided by Floyd Landis during the 2006 Tour de France, including IRMS and GC-MS.
5. All calibration data for GC-MS and IRMS equipment used by LNDD used to test any sample provided by Floyd during the 2006 Tour de France.
6. All documents from WADA to LNDD that reference the validation, testing, use or standards of GC-MS or IRMS, including but not limited to:
  - a. All DOCUMENTS that evidence, reference or relate to any surveys conducted by WADA or by the World Association of Anti-Doping Scientists;
  - b. All DOCUMENTS that relate to the accuracy and validity of the IRMS testing method.
7. All documents from USADA to LNDD that reference validation, testing, use or standards of GC-MS or IRMS.
8. All DOCUMENTS, from any source, that relate to the use or approval of LNDD's current criteria for determining an Adverse Analytic Finding ("AAF") using GC-MS or IRMS.
9. All DOCUMENTS, from any source, that relate to any changes, adjustments or alterations made to the criteria for determining an Adverse Analytic Finding ("AAF") using GC-MS or IRMS.
10. All DOCUMENTS related to the blank urine samples used in connection with the analysis of any specimen taken from Floyd Landis during the 2006 Tour de France.
11. All DOCUMENTS related to the laboratory test results associated with (1) sample number 995475, (2) sample number 995476 and (3) sample number 994474.
12. All DOCUMENTS related to the certification by WADA of LNDD.
13. All DOCUMENTS related to any change of protocol or procedure put in place in response to any finding or conclusion rendered by any doping court in conjunction with Inigio Landaluze.
14. All DOCUMENTS related to the identification of LNDD personnel and their roles at LNDD.

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15. All DOCUMENTS related to claims that LNDD has (1) failed to follow its own laboratory procedures or (2) generated inaccurate test results or conclusions and (3) the resolution of any of the foregoing claims.

16. All DOCUMENTS discussing the possibility of testing specimens associated with Floyd Landis aside from those taken after completion of Stage 17 of the 2006 Tour de France.

17. All DOCUMENTS related to a critique of publicly available documents authored by Dr. Arnie Baker.

18. All DOCUMENTS between and among LNDD and WADA and/or any sports federation regarding:

- a. Errors in documentation packages;
- b. Requests to destroy or actual destruction of laboratory reports or any portion of laboratory reports;
- c. Errors related to contamination or degradation of blank urine samples;

19. All DOCUMENTS that demonstrate LNDD's compliance with WADA International Standard for Laboratories ("ISL") Version 3.0, section 5.4.4.4.1.1 regarding access to computer terminals, computers or other operating equipment.

20. All DOCUMENTS that demonstrate LNDD's compliance with WADA International Standard for Laboratories ("ISL") Version 3.0, section 5.4.4.4.1.3 regarding documentation of changes to results.

21. All DOCUMENTS that demonstrate LNDD's compliance with WADA International Standard for Laboratories ("ISL") Version 3.0, section 5.4.4.4.1.4 regarding recording of reporting processes and all changes to reported data.

22. All DOCUMENTS that evidence LNDD's compliance with ISO 17025, section 4.13.1.4 regarding procedures to protect and back up records electronically and to prevent unauthorized access to or amendment of these records.

23. All DOCUMENTS sent from LNDD to the Conseil de Prevention et de Lutte Contre le Dopage concerning sample 995474.

## **C. DOCUMENTS RELATED TO IRMS AND GC-MS**

1. All DOCUMENTS that relate to the frequency that LNDD has performed IRMS and the results of those tests.

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2. All DOCUMENTS that relate to the frequency that other WADA-approved labs have performed IRMS and the results of those tests.
3. All DOCUMENTS that relate to the standards by which LNDD or other WADA-approved labs have determined the standards by which testosterone or its metabolites are determined to be exogenous using IRMS.
4. All DOCUMENTS that relate to LNDD's purchase and use of IRMS equipment and software and software updates and GC-MS equipment and software and software updates, including but not limited to:
  - a. DOCUMENTS related to calibration standards and certificates (including those documents related to the type and grade of purity of the reference gas used);
  - b. DOCUMENTS related to the precise version of the IRMS software used by LNDD, and;
  - c. DOCUMENTS related to the manufacturer's recommended procedures for the use of the IRMS test, including its operating pressure;
5. All DOCUMENTS that relate to the calculation of the .8 measure of uncertainty value for IRMS delta calculations.
6. All DOCUMENTS, from any source, that relate to the criteria used by other WADA-accredited laboratories aside from LNDD for determining an AAF for testosterone or testosterone precursors based on a Testosterone/Epitestosterone ratio analysis or an IRMS test result.
7. All DOCUMENTS that relate to the selection of metabolites used by LNDD for the IRMS test.
8. All DOCUMENTS that relate to the expected delta values for androsterone, etiocholanolone, 5 alpha Androstenediol and 5 beta Androstenediol for negative control urine used the IRMS test.
9. All DOCUMENTS that relate to the linearity tests conducted by LNDD on the Isoprime used in the IRMS test that (1) analyzed any specimen taken from Floyd Landis during the 2006 Tour de France and (2) analyzed any specimen immediately prior to the testing of sample 995474.
10. All DOCUMENTS that relate to the creation and accuracy of the background subtraction method used by LNDD in the IRMS test.

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11. All DOCUMENTS that relate to the "craig correction" in connection with the IRMS test.
12. All DOCUMENTS that relate to the calculation and application of the correction factor(s) applied to the IRMS test for any sample tested by LNDD from Floyd Landis during the 2006 Tour de France.
13. All DOCUMENTS that relate to the identification of each of the peaks in the IRMS analysis for any sample tested by LNDD from Floyd Landis during the 2006 Tour de France.
14. All DOCUMENTS that relate to background scans for the IRMS machine that would have occurred contemporaneous with the testing of any specimen taken from Floyd Landis during the 2006 Tour de France.
15. All DOCUMENTS that relate to the calculation of the 20% measure of uncertainty for testosterone calculation and 30% measure of uncertainty for epitestosterone calculation.
16. All DOCUMENTS that relate to the calculation of the 30% measure of uncertainty for the ratio of testosterone to epitestosterone using the GC-MS test.
17. All DOCUMENTS related to the reference range for IRMS (as shown on USADA 352), including those documents related to (1) the sample size; (2) the applicable highs and lows; (3) the correlation coefficient between Adiol and PDiol and (4) the subtraction values.
18. A clear and legible copy of USADA 0105.
19. All DOCUMENTS related to the derivitization marker with mass 361.30.

We request that these documents be made available for reproduction by February 8, 2007. We agree to enter into a protective order that will alleviate any concerns of publication of those documents outside of this litigation and for any non-litigation related purpose.

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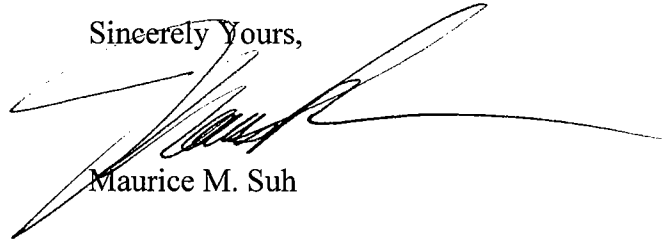
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Please do not hesitate to contact me with any questions you may have.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "M. Suh", with a long horizontal flourish extending to the right.

Maurice M. Suh

MMS/td

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